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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 **LENZA H. MCEL RATH III, individually**
14 **and on behalf of all others similarly situated,**

15 **Plaintiffs,**

16 **vs.**

17 **UBER TECHNOLOGIES, INC.**
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19 **Defendant.**
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Case No. 3:16-cv-07241-JSC

CLASS ACTION

**NOTICE OF PENDENCY OF OTHER
ACTION OR PROCEEDING PURSUANT
TO LOCAL RULE 3-13**

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Pursuant to Local Rule 3-13, Plaintiff Lenza H. McElrath III hereby notifies the Court and Defendant of the pendency of other actions or proceedings:

1. On May 2, 2016, plaintiff Lenza H. McElrath III filed an action against Defendant Uber Technologies, Inc. in California Superior Court (City and County of San Francisco), styled *Lenza H. McElrath III v. Uber Technologies, Inc.*, Case No. CGC-16-551748. The state action presently alleges a single cause of action under the California Labor Code Private Attorneys General Act (California Labor Code §2698, *et. seq.* – “PAGA”), seeking to recover penalties for Defendant’s violation of California Labor Code § 970 for alleged misrepresentations involving stock options made to induce plaintiff and other recruits to relocate to accept employment with Defendant.

On December 19, 2016, Plaintiff McElrath filed this federal action against Defendant Uber Technologies, Inc., alleging that Defendant systematically breached its standardized employment agreements by 1) promising employees, such as plaintiff, one type of stock option, but after joining the company granting them a far less valuable type of stock option; and 2) imposing severe limits on the promised time frames that employees can exercise their options. The federal complaint alleges claims for breach of contract, breach of the implied good faith covenant, false promise, misrepresentation, violation of California Labor Code § 970 and violation of California Unfair Competition Law (Cal. Bus. & Prof. Code § 17200). The state court PAGA claim overlaps the claim for violation of Labor Code §970 alleged in this action, but seeks penalties rather than damages; both claims are limited to employees who actually relocated to accept employment. The myriad other claims alleged in this federal action are substantially broader, and include all putative class members who were victimized by Defendant’s conduct whether or not they relocated. Plaintiff does not believe that the proceedings should be coordinated.

2. On or about July 27, 2016, Mr. McElrath filed a complaint with the National Labor Relations Board against Uber Technologies, Inc., Case No. 20-CA-181146, charging that Uber has engaged in unfair labor practices by enforcing a dispute resolution agreement which employees are required to sign and which interferes with, restrains and coerces employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, in violation of

1 Section 8(a)(1) of the Act. The charge alleges that Uber has enforced the dispute resolution
2 agreement in the state court PAGA action. Plaintiff does not believe that the proceedings should
3 be coordinated.

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5 Dated: January 13, 2017

PHILLIPS, ERLEWINE, GIVEN & CARLIN LLP

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7 By: /s/ R. Scott Erlewine

R. Scott Erlewine

Nicholas A. Carlin

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